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Security Council

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Working Group on Children and Armed Conflict

Conclusions on children and armed conflict in the Democratic Republic of the Congo

1. At its 49th meeting, on 21 July 2014, the Security Council Working Group on Children and Armed Conflict examined the fifth report of the Secretary-General on children and armed conflict in the Democratic Republic of the Congo (S/2014/453), which was introduced by the Special Representative of the Secretary-General for Children and Armed Conflict. The Permanent Representative of the Democratic Republic of the Congo also addressed the Working Group.

2. The members of the Working Group welcomed the submission of the report of the Secretary-General, in accordance with Security Council resolutions 1612 (2005), 1882 (2009), 1998 (2011), 2068 (2012) and 2143 (2014), and took note of the analysis and recommendations contained therein.

3. The members of the Working Group welcomed the efforts of the Government of the Democratic Republic of the Congo to protect children, in particular the signature on 4 October 2012 of the Action Plan to end and prevent the recruitment and use of children, sexual violence and other grave violations against children by the national armed and security forces and the appointment on 14 July 2014 of a Presidential Adviser on Sexual Violence and Child Recruitment. The members of the Working Group expressed concerns about continued violations and abuses against children and about the lack of accountability. They also stressed the importance of adopting a comprehensive approach that addresses the root causes of conflict.

4. The Permanent Representative of the Democratic Republic of the Congo underlined the harmful impact of the conflict in the Democratic Republic of the Congo on children's rights, and stressed that although the situation had improved, non-State armed groups continue to recruit and use children in violation of applicable international law. He highlighted the efforts made by his Government to end and prevent violations and abuses against children, including the signature on 4 October 2012 of the Action Plan to end and prevent the recruitment and use of children, sexual violence and other grave violations against children by the national armed and security forces and the appointment on 14 July 2014 of a Presidential Adviser on Sexual Violence and Child Recruitment. He reiterated the political will of his Government to pursue its efforts to end and prevent the recruitment and use of children in violation of applicable international law.

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5. Further to the meeting, and subject to and consistent with applicable international law and relevant Security Council resolutions, including resolutions 1612 (2005), 1882 (2009), 1998 (2011), 2068 (2012) and 2143 (2014), the Working Group agreed to the direct action as set out below.

Public statement by the Chair of the Working Group

6. The Working Group agreed to address the following message to all parties to the armed conflict in the Democratic Republic of the Congo, in particular the Forces armées de la République Démocratique du Congo (FARDC), the Forces démocratiques de libération du Rwanda (FDLR), the Forces de résistance patriotique en Ituri (FRPI), the Lord's Resistance Army (LRA), various Mayi-Mayi groups, the Coalition des patriotes résistants congolais (PARECO) and the Allied Democratic Forces (AD), as mentioned in the report of the Secretary-General, through a public statement by its Chair:

(a) Strongly condemning all violations and abuses that continue to be committed against children in the Democratic Republic of the Congo, urging them to immediately end and prevent all violations of applicable international law involving the recruitment and use of children, abduction, killing and maiming, rape and other forms of sexual violence, attacks on schools and hospitals and denial of humanitarian access and reminding them that they have obligations under international law;

(b) Calling on them to further implement previous conclusions of the Working Group on Children and Armed Conflict in the Democratic Republic of the Congo (S/AC.51/2007/17, S/AC.51/2009/3, S/AC.51/2011/1);

(c) Stressing that all perpetrators of such acts must be swiftly brought to justice and held accountable, including through timely and systematic investigation and prosecution, and noting that some of the above-mentioned acts are prohibited and criminalized under Law No. 09/001 on the protection of the child, adopted by the Government of the Democratic Republic of the Congo on 10 January 2009, including the recruitment and use of children by national armed forces or non-State armed groups;

(d) Further noting that on 19 April 2004 the Government of the Democratic Republic of the Congo referred the situation in the Democratic Republic of the Congo to the Prosecutor of the International Criminal Court, and that some of the acts mentioned in 6 (a) may amount to crimes under the Rome Statute of the International Criminal Court, to which the Democratic Republic of the Congo is a State party;

(e) Strongly urging them to immediately and without preconditions release all children within their ranks and to take immediate and specific measures to put an end to and prevent the perpetration of rape and other forms of sexual violence against children by members of their respective groups;

(f) Calling upon them to comply with applicable international law and to respect the civilian character of schools and hospitals, including their personnel, and to end and prevent attacks or threats of attacks against those institutions and their personnel, as well as the military use of schools in violation of applicable international law;

(g) Expressing its deep concern about the continued presence and ongoing destabilizing activities in the eastern Democratic Republic of the Congo of, in particular, FDLR, various Mayi-Mayi groups, FRPI, LRA, PARECO and ADF and their harmful impact on children;

(h) Further calling upon all non-State armed groups to publicly express their commitment to end and prevent all violations and abuses committed against children, and to expeditiously develop, adopt and implement action plans in line with Security Council resolutions 1612 (2005), 1882 (2009), 1998 (2011), 2068 (2012) and 2143 (2014), if they are listed in annex I to the report of the Secretary-General on children and armed conflict;

(i) Recalling in this regard that four of those non-State armed groups, FDLR, FRPI, the Mayi-Mayi "Lafontaine" and former elements of PARECO and LRA have been listed in annex I to the report of the Secretary-General on Children and Armed Conflict for at least five years;

(j) Welcoming the signing by the Government of the Democratic Republic of the Congo on 4 October 2012 of the Action Plan to end and prevent the recruitment and use of children, sexual violence and other grave violations against children by the national armed and security forces, as well as the Government's engagement in the campaign "Children, Not Soldiers" and strongly urging the Government to swiftly, fully and effectively implement the Action Plan, including at the provincial level;

(k) Welcoming the appointment on 14 July 2014 of a presidential adviser on sexual violence and child recruitment, and inviting her to promote close coordination and cooperation among national authorities and international partners involved in fighting sexual violence and recruitment and use of children in the Democratic Republic of the Congo;

(l) Urging those who are or will be engaged in peace talks and agreements to ensure that child protection provisions, including the release and reintegration of children, are integrated into the peace talks and agreements;

(m) Recalling that the Security Council, by its resolution 2136 (2014), renewed until 1 February 2015 the financial and travel measures imposed by resolution 1807 (2008), which apply to individuals and, as appropriate, entities, as designated by the Committee established pursuant to resolution 1533 (2004), which include:

(i) Individuals or entities operating in the Democratic Republic of the Congo and recruiting or using children in armed conflict in violation of applicable international law;

(ii) Individuals or entities operating in the Democratic Republic of the Congo and involved in planning, directing or participating in the targeting of children or women in situations of armed conflict, including killing and maiming, rape and other sexual violence, abduction, forced displacement, and attacks on schools and hospitals;

(iii) Individuals or entities obstructing the access to or the distribution of humanitarian assistance in the Democratic Republic of the Congo;

(n) Further recalling that on 13 August 2010, the Committee updated its sanctions list to include the charges of recruitment and use of children against nine individuals already included in the list of individuals and entities subject to the travel ban and assets freeze imposed by paragraphs 13 and 15 of resolution 1596 (2005), as renewed by paragraph 3 of resolution 1896 (2009), and that between 1 December 2010 and 30 June 2014 the Committee added seven individuals and three entities to the list for the recruitment, use and/or targeting of children;

(o) Recalling the Working Group's readiness to communicate to the Security Council pertinent information with a view to assisting the Council in the imposition of targeted measures on persistent perpetrators.

Recommendations to the Security Council

7. The Working Group agreed to recommend that the President of the Security Council transmit a letter addressed to the Government of the Democratic Republic of the Congo:

(a) Welcoming the efforts made in the Democratic Republic of the Congo since the last conclusions of the Working Group, in particular the signing by the Government of the Democratic Republic of the Congo on 4 October 2012 of the Action Plan to end and prevent the recruitment and use of children, sexual violence and other grave violations against children by the national armed and security forces, the Government's engagement in the campaign "Children, Not Soldiers", the appointment on 14 July 2014 of a presidential adviser on sexual violence and child recruitment, the issuance on 3 May 2013 of a Ministry of Defense Directive on the implementation of the Action Plan and of a National Intelligence Agency Directive on children detained on charges related to association with non-State armed groups, the exclusion of serious crimes against children such as their recruitment and use and sexual violence from the Amnesty Law adopted on 11 February 2014 and progress, since the signing of the Action Plan, in the provision of access for the United Nations country task force on monitoring and reporting to military and detention facilities with a view to identify and separate children;

(b) Noting that the primary responsibility for the protection of children affected by armed conflict in the Democratic Republic of the Congo lies with the Government of the Democratic Republic of the Congo;

(c) Expressing concern about continued violations committed against children by the national armed and security forces and thus calling upon the Government to swiftly, fully and effectively implement the Action Plan and the aforementioned Directives and to ensure their wide dissemination at the provincial level and throughout the military chain of command, including by putting in place all provincial technical working groups as outlined in the Government Directive of 18 July 2013;

(d) Also expressing concern regarding the continued detention of children on charges related to association with non-State armed groups in violation of the aforementioned Directives, which urge the Government to ensure that children are not detained for association with non-State armed groups and stressing that children arrested during military operations should be primarily treated as victims;

(e) Welcoming efforts made by the Government to ensure that children were not recruited by the national armed and security forces during recent recruitment

drives, including through providing access for the United Nations country task force on monitoring and reporting to military facilities, and strongly encouraging the Government to establish, in collaboration with the United Nations, effective age verification and oversight procedures, as well as birth and late birth registration, in order to prevent the recruitment of children into the national armed and security forces;

(f) Urging the Government to take all necessary measures to ensure that no amnesty is granted to perpetrators of violations and abuses committed against children in line with the Amnesty Law adopted on 11 February 2014, and taking into account the Nairobi Declarations signed on 12 December 2013;

(g) Further urging the Government to establish an effective vetting mechanism to ensure that no perpetrators are integrated or recruited into the national armed and security forces and to systematically withdraw all perpetrators of violations and abuses committed against children from its forces, irrespective of their rank, and to hold them accountable;

(h) Expressing deep concern over the lack of accountability for violations and abuses committed against children, and calling upon the Government to put an end to impunity by ensuring that all perpetrators of violations and abuses are swiftly brought to justice and held accountable, including through timely and systematic investigation and prosecution;

(i) Urging the Government to develop with the support of the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) and the United Nations Children's Fund (UNICEF) standard operating procedures for the handover of children formerly associated with national armed forces and groups and for the protection of children in the course of military operations;

(j) Calling upon the Government to ensure that the national disarmament, demobilization and reintegration programme and the security sector reform take into account the specific needs of children affected by the armed conflict and the protection of their rights and that the implementation of the third national disarmament, demobilization and reintegration programme (Programme national de DDR III) is carried out in the best interest of the child;

(k) Encouraging the Government to focus on sustainable reintegration opportunities for children affected by the armed conflict, including sensitization of communities to avoid stigmatization of these children, while ensuring that the specific needs of girls are taken care of and that they are afforded equal reintegration opportunities.

8. The Working Group agreed to recommend that the President of the Security Council transmit a letter to the Secretary-General:

(a) Requesting the Secretary-General to ensure that the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) and the United Nations Children's Fund (UNICEF), as well as other relevant United Nations agencies, continue and strengthen their efforts to support, in line with their respective mandates, the Congolese authorities in fighting impunity, including through the strengthening of the criminal justice system in accordance with the Congolese strategy for justice reform, in establishing effective recruitment

procedures and age verification mechanisms in the national armed and security forces to prevent the recruitment and use of children in the Democratic Republic of the Congo, in mainstreaming the specific needs of children affected by armed conflict and the protection of their rights in all disarmament, demobilization and reintegration programmes and in security sector reform, in providing long-term rehabilitation and reintegration programmes and opportunities to children formerly associated with national armed forces and non-State armed groups and training of the national armed and security forces on the protection of children, in bolstering the education and health system and in establishing standard operating procedures for the handover of children formerly associated with national armed forces and groups and for the protection of children in the course of military operations;

(b) Further requesting the Secretary-General to ensure that the United Nations country task force on monitoring and reporting continues its advocacy for the release and reintegration of children associated with non-State armed groups and national armed forces and of children detained on charges related to association with non-State armed groups, and prioritizes its efforts to ensure that the Action Plan to end and prevent the recruitment and use of children, sexual violence and other grave violations against children by the national armed and security forces, signed on 4 October 2012 by the Government of the Democratic Republic of the Congo, is fully implemented, and to reach out in this regard to non-State armed groups, with a view to developing action plans to end and prevent the recruitment and use of children, killing and maiming, and attacks on schools and hospitals, in violation of applicable international law, as well as rape and other forms of sexual violence against children and to address other violations and abuses committed against children in the Democratic Republic of the Congo;

(c) Requesting the Secretary-General to ensure the effectiveness of the monitoring and reporting mechanism on children and armed conflict in the Democratic Republic of the Congo and of the child protection component of MONUSCO, including by ensuring that sufficient child protection capacities are allocated to the Mission.

9. The Working Group agreed to recommend that the President of the Security Council transmit a letter to the Chair of the Security Council Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo:

(a) Recalling paragraph 9 (c) of resolution 1998 (2011), by which the Security Council requested enhanced communication between the Working Group and relevant Security Council sanctions committees, including through the exchange of pertinent information on violation and abuses committed against children in armed conflict;

(b) Recalling also paragraph 17 of resolution 1698 (2006), by which the Security Council requested the Working Group, the Secretary-General, and his Special Representative for Children and Armed Conflict, as well as the Group of Experts on the Democratic Republic of the Congo, within its capabilities and without prejudice to the execution of the other tasks in its mandate, to assist the Committee established pursuant to resolution 1533 (2004) in the designation of political and military leaders for sanctions, by communicating to the Committee any useful information without delay;

(c) Welcoming the inclusion, on 31 August 2010, in the Committee's sanctions list of the charges of recruitment and use of children against nine individuals whose names already appeared in the list and the addition, between 1 December 2010 and 30 June 2014, of seven individuals and three entities to the list for the recruitment, use and/or targeting of children;

(d) Encouraging the Committee to continue considering the designation for sanctions of other individuals and entities, in accordance with the rules and guidelines of the Committee, and in this regard also encouraging the continued exchange of pertinent information between the Special Representative of the Secretary-General for Children and Armed Conflict and the Committee;

(e) Welcoming in this regard the briefings to the Committee by the Special Representative of the Secretary-General for Children and Armed Conflict on 21 May 2010 and on 17 September 2014.

10. The Working Group agreed to recommend the following to the Security Council:

(a) Ensuring that the situation of children and armed conflict in the Democratic Republic of the Congo continues to be duly taken into consideration by the Council when reviewing the mandate of the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) and its activities;

(b) Ensuring the continuation of a child protection mandate for MONUSCO, especially with regard to monitoring, reporting, training and mainstreaming, as well as dialogue on action plans and support in their implementation;

(c) Communicating the present document to the Security Council Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo.

Direct action by the Working Group

11. The Working Group agreed to send letters from the Chair of the Working Group addressed to the World Bank and donors:

(a) Requesting the World Bank and donors to provide funding and assistance to support the Government of the Democratic Republic of the Congo and relevant humanitarian and development partners in establishing effective recruitment procedures and age verification mechanisms in the national armed and security forces to prevent the recruitment and use of children, in sustaining ongoing national programmes for the strengthening of the criminal justice system in accordance with the Congolese strategy for justice reform, in training of the national armed and security forces on the protection of children, in providing long-term rehabilitation and reintegration programmes to children formerly associated with national armed and security forces or non-State armed groups, in ensuring timely and appropriate care for child victims of rape and other forms of sexual violence through facilitating provision of services for victims and in bolstering the education and health system, and to keep the Working Group informed, as appropriate;

(b) Calling upon the World Bank and donors to provide the necessary financial resources in support of the monitoring and reporting mechanism and the full implementation of the Action Plan to end and prevent the recruitment and use of

children, sexual violence and other grave violations against children by the national armed and security forces signed on 4 October 2012 by the Government of the Democratic Republic of the Congo;

(c) Further calling upon the World Bank and donors to support the Government efforts in the promotion of birth and late-birth registration as a means to prevent recruitment and use of children in the Democratic Republic of the Congo and to guarantee the comprehensive disarmament, demobilization and reintegration of children associated with national armed and security forces or non-State armed groups.